

Introduced by Senator Battin

February 18, 2005

An act to amend Section ~~290 of the Penal~~ 3030 of the Family Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 544, as amended, Battin. Sex offenders: ~~registration~~ custody and visitation.

Existing law requires a person convicted of certain sex offenses to register with the local law enforcement officer of the city or county where he or she resides or is located, as specified.

Existing law prohibits a person from being granted physical or legal custody of, or unsupervised visitation with, a child if the person is required to register as a sex offender and the victim was a minor or the person has committed another specified crime against a child, unless the court finds that there is no significant risk to the child and states its reasons in writing or on the record.

~~This bill would make technical, nonsubstantive changes to this provision delete that exception to the general prohibition against granting custody or visitation with respect to a child who is less than 14 years of age. The bill would also provide that a court may not grant custody of or visitation with a child who is 14 years of age but not yet 18 years of age unless the court finds that there is no risk, rather than no significant risk, to the child.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 290 of the Penal Code is amended to~~
2 ~~read:~~

3 ~~SECTION 1. Section 3030 of the Family Code is amended to~~
4 ~~read:~~

5 3030. (a) (1) No person shall be granted physical or legal
6 custody of, or unsupervised visitation with, a child *who is at least*
7 *14 years of age but not yet 18 years of age* if the person is
8 required to be registered as a sex offender under Section 290 of
9 the Penal Code where the victim was a minor, or if the person
10 has been convicted under Section 273a, 273d, or 647.6 of the
11 Penal Code, unless the court finds that there is no ~~significant~~ risk
12 to the child and states its reasons in writing or on the record.

13 (2) *No person shall be granted physical or legal custody of, or*
14 *unsupervised visitation with, a child who is less than 14 years of*
15 *age if the person is required to be registered as a sex offender*
16 *under Section 290 of the Penal Code where the victim was a*
17 *minor, or if the person has been convicted under Section 273a,*
18 *273d, or 647.6 of the Penal Code.*

19 (b) No person shall be granted custody of, or visitation with, a
20 child if the person has been convicted under Section 261 of the
21 Penal Code and the child was conceived as a result of that
22 violation.

23 (c) No person shall be granted custody of, or unsupervised
24 visitation with, a child if the person has been convicted of murder
25 in the first degree, as defined in Section 189 of the Penal Code,
26 and the victim of the murder was the other parent of the child
27 who is the subject of the order, unless the court finds that there is
28 no risk to the child's health, safety, and welfare, and states the
29 reasons for its finding in writing or on the record. In making its
30 finding, the court may consider, among other things, the
31 following:

32 (1) The wishes of the child, if the child is of sufficient age and
33 capacity to reason so as to form an intelligent preference.

34 (2) Credible evidence that the convicted parent was a victim of
35 abuse, as defined in Section 6203, committed by the deceased
36 parent. That evidence may include, but is not limited to, written
37 reports by law enforcement agencies, child protective services or
38 other social welfare agencies, courts, medical facilities, or other

1 public agencies or private nonprofit organizations providing
2 services to victims of domestic abuse.

3 (3) Testimony of an expert witness, qualified under Section
4 1107 of the Evidence Code, that the convicted parent suffers
5 from the effects of battered women's syndrome.

6 Unless and until a custody or visitation order is issued pursuant
7 to this subdivision, no person shall permit or cause the child to
8 visit or remain in the custody of the convicted parent without the
9 consent of the child's custodian or legal guardian.

10 (d) The court may order child support that is to be paid by a
11 person subject to subdivision (a), (b), or (c) to be paid through
12 the local child support agency, as authorized by Section 4573 of
13 the Family Code and Division 17 (commencing with Section
14 17000) of this code.

15 (e) The court shall not disclose, or cause to be disclosed, the
16 custodial parent's place of residence, place of employment, or the
17 child's school, unless the court finds that the disclosure would be
18 in the best interest of the child.

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21 **All matter omitted in this version of the bill**
22 **appears in the bill as introduced in Senate,**
23 **February 18, 2005 (JR11)**
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